

Application Serial No. 10/557,519

OT-5302

IN THE UNITED STATES PATENT AND TRADEMARK OFFICEApplicant: Shusaku SHIBASAKI, *et al.*

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Serial Number: 10/557,519

PCT Filed: May 27, 2004

U.S. National Stage Entered: November 19, 2005

Group Art Unit: 3654

Examiner: Eric E. PICO

Title: ELEVATOR DEVICE

REQUEST FOR PRE-APPEAL BRIEF REVIEW

Mail Stop AF
Commissioner For Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This request is responsive to Final Office Action that was mailed on July 21, 2008 and the Advisory Action that was issued on October 28, 2008. Applicants present this request for pre-appeal brief review because the Examiner has not established a *prima facie* case of obviousness against any of Applicants' claims.

Under 35 U.S.C. § 103(a), the Examiner rejected: (a) claims 8 and 10-12 as allegedly being obvious when considering U.S. Patent No. 6,006,865 ("Ammon") in view of U.S. Patent Application Publication No. 2001/0040071 ("Sasaki"); and (b) claims 8, 10, 12, and 14 as allegedly being obvious when considering U.S. Patent Publication No. Publication No. 2004/0262087 ("Ach") in view of Sasaki. Applicants respectfully continue to traverse each of these rejections.

Claim 8 (*i.e.*, the claim from which claims 10-12 and 14 depend) recites an elevator that includes, among other possible things:

a car is guided in a shaft to move vertically along a pair of first guide rails between which the car is arranged;
a counterweight is guided to move vertically via a pair of second guide rails between which the counterweight is arranged;

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at least one drive rope that connects the car and the counterweight is wound on the drive sheave of a hoist so that as the drive sheave is driven to rotate, the car and the counterweight move vertically in opposite directions;

a cantilevered support member fixed to one of the guide rails; and

a car overspeed governor mounted to the cantilevered support member,

wherein the first guide rails are arranged at approximately diagonal positions with the car therebetween, and

wherein one end of the at least one drive rope is fastened to the cantilevered support member.

As above-italicized, claim 8 recites a cantilevered support member to which a car overspeed governor is mounted and to which an end of at least one drive rope is fastened. In rejecting claim 8, the Examiner acknowledged that: (a) "Ammon is silent concerning a cantilevered support member; and a car overspeed governor mounted to the cantilevered support member"; and (b) "Ach is silent concerning a car overspeed governor mounted to the cantilevered support member 9." To cure the admitted deficiencies of both Ammon and Ach, the Examiner turns to Sasaki.

Applicants acknowledge that Sasaki teaches a cantilevered support member that supports a car overspeed governor. However, Sasaki's cantilevered support member (bracket 18) can not be used to replace either Ammon's support member (carrier yoke 9) or Ach's support member (bracket 9). In both cases, replacing the support member 9/9 (Ammon/Ach) with Sasaki's cantilevered support member 18 would place Sasaki's car overspeed governor 13 in conflict with the moving counterweight 3/15 (Ammon/Ach), thereby rendering the elevator system completely inoperable. Where the "proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification." M.P.E.P. § 2143.01(V).

In light of the foregoing, neither the combination Ammon with Sasaki nor the combination of Ach with Sasaki can be used to reject claim 8 under 35 U.S.C. § 103(a) and, therefore, the rejections of claim 8 based on Ammon with Sasaki and on Ach with Sasaki should be withdrawn. Moreover, as claims 10-12 and 14 depend from claim 8, each of these dependent claims is also allowable over Ammon, Ach, and Sasaki. Accordingly, a withdrawal of the various § 103(a) rejections of claims 8, 10-12, and 14 is both warranted and earnestly solicited.

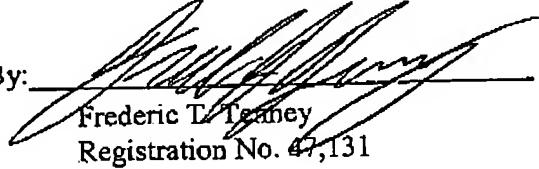
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The Commissioner is authorized to charge Deposit Account No. 15-0750 in the name of Otis Elevator Company for any additional fees or credit the account for any overpayment.

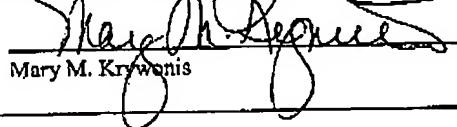
Respectfully submitted,

Date: November 5, 2008
Customer Number: 26584
OTIS ELEVATOR COMPANY
10 Farm Springs Road
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Direct Dial: 860-676-6243
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By: 
Frederic T. Tenney
Registration No. 47,131

CERTIFICATE OF FACSIMILE

I hereby certify that this Request for Pre-Appeal Brief Review, relative to Application Serial No. 10/557,519, is being facsimile transmitted to the Patent and Trademark Office (Fax No. (311) 273-8300) on November 5, 2008.


Mary M. Krwonis

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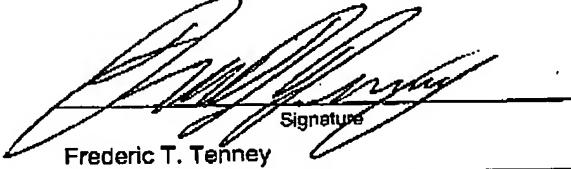
Doc Code: AP.PRE.REQ

PTO/SB/03 (10-08)

Approved for use through 11/30/2008, OMB 0651-0031

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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) OT-5302 FTT
<p>I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" (37 CFR 1.8(a))</p> <p>on _____</p> <p>Signature _____</p> <p>Typed or printed name _____</p>		<p>Application Number 10/557,519</p> <p>Filed 11-19-05</p> <p>First Named Inventor Shusaku Shibasaki</p> <p>Art Unit 3654</p> <p>Examiner PICO, ERIC E</p>
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p>		
<p>I am the</p> <p><input type="checkbox"/> applicant/inventor.</p> <p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p> <p><input checked="" type="checkbox"/> attorney or agent of record. <u>26684</u> Registration number _____</p> <p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____</p>		 <p>Frederic T. Tenney Typed or printed name</p> <p>860-676-6243 Telephone number</p> <p>November 5, 2008 Date</p>
<p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p> <p><input type="checkbox"/> *Total of <u>1</u> forms are submitted.</p>		

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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